

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION

UNITED STATES OF AMERICA	)	
	)	
v.	)	Criminal No. 01-455-A
	)	
ZACARIAS MOUSSAOUI	)	
a/k/a "Shaqil,"	)	
a/k/a "Abu Khalid	)	
al Sahrawi,"	)	
	)	
Defendant.	)	

ORDER

Pending before the Court is standby defense counsel's Motion to Strike Government's Notice of Intent to Seek a Sentence of Death, which was filed before we granted the defendant's request to dismiss court-appointed counsel and proceed pro se. In light of the Supreme Court's recent decision in Ring v. Arizona, \_\_\_ U.S. \_\_\_, 2002 U.S. LEXIS 4651 (June 24, 2002), standby counsel have filed a Supplemental Memorandum in Support of Motion to Dismiss Notice of Intent to Seek Penalty of Death arguing that, under Ring, the Federal Death Penalty Act ("FDPA"), 18 U.S.C. §§ 3591-98, is unconstitutional.<sup>1</sup>

Given the issues raised in the Supplemental Memorandum, the Court will not rule on the adequacy of the United States' Notice of Intent to Seek a Sentence of Death until the constitutionality

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<sup>1</sup>A pro se defendant's Faretta rights are not compromised or undermined by standby counsel's participation in pretrial matters, which occur outside the presence of a jury, so long as a defendant is afforded an opportunity to convey his position(s) to the court. See McKaskle v. Wiggins, 465 U.S. 168, 179 (1984).

of the FDPA is addressed. Therefore, it is hereby

ORDERED that any response to the Supplemental Memorandum by the United States and/or the defendant be filed by Monday, July 22, 2002.

The Clerk is directed to forward copies of this Order to the defendant, pro se; counsel for the United States; and standby defense counsel.

Entered this 11<sup>th</sup> day of July, 2002.

/s/

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Leonie M. Brinkema  
United States District Judge

Alexandria, Virginia